

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: NEGOTIATED INTERCONNECTION AGREEMENTS	DOCKET NO. RMU-00-11
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ORDER ADOPTING RULES

(Issued March 15, 2001)

Pursuant to the authority of Iowa Code §§ 476.1, 476.2, 476.11, 476.101, and 17A.4 (1999), and 47 U.S.C. § 252(e) and (i), the Utilities Board (Board) adopts the amendments attached hereto and incorporated by reference. These rules amend 199 IAC 38.7(4). The reasons for adopting these amendments are set forth in the attached notice of adopted and filed rules.

IT IS THEREFORE ORDERED:

1. The amendments to 199 IAC 38.7(4) set out in the attached notice of adopted and filed rules, identified as Docket No. RMU-00-11 and incorporated herein by this reference, are adopted by the Board.

2. The Acting Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to this order.

UTILITIES BOARD

/s/ Allan T. Thoms

ATTEST:

/s/ Judi K. Cooper
Acting Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 15th day of March, 2001.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, 476.11, and 476.101, and 47 U.S.C. Sections 252(e) and (i), the Utilities Board (Board) gives notice that on March 15, 2001, the Board issued an order in Docket No. RMU-00-11, In re: Negotiated Interconnection Agreements, amending 199 IAC 38.7(4) concerning the review of negotiated interconnection agreements. The amended rules will allow the Board to fulfill its obligations under the federal statutes in a shorter time and with less paperwork.

Federal statutes provide for Board review of negotiated interconnection agreements between telecommunications local exchange carriers to address public interest concerns and to ensure that no discrimination exists against any other carrier not a party to the agreement (47 U.S.C. Section 252(e)(2)(A)). Under its current process, the Board issues an order docketing each negotiated interconnection agreement for comments, waits 30 days for comments, prepares and reviews a staff memorandum, and then issues an order approving the agreement. This involves a substantial number of repetitive tasks that provide no discernable benefit to the public. To date, the Board has received no comments opposing the approval of any negotiated agreement, and internal review has not produced a recommendation to reject any agreement.

The Board has determined that its review and approval procedures can be simplified in two respects without diminishing the oversight. First, the adopted changes to 199 IAC 38.7(4) eliminate the need for the two orders issued by the Board, unless internal review shows the agreement is not in the public interest or comments are filed objecting to the agreement. Second, the Board will develop a Web page on the Board's Web site that will list negotiated interconnection agreements, amendments, and adoptions within five days of filing.

The Web page posting of the agreement or amendment will be the notice to the public that will show the date for filing comments. Interested persons will be given 30 days from the date the agreement was filed to file objections or support for the agreement, and the agreement will be deemed approved on the forty-first day after filing, if there are no objections and if internal review raises no issues.

The adopted changes to the subrule and the procedures for reviewing and approving negotiated interconnection agreements will shorten the time for those seeking approval of the agreements and the approval will occur without the administrative burden of issuing two orders. The internal review of the agreements will not change significantly. The Web page will indicate the approval date of the agreement and whether the agreement has been docketed.

Adoption by telecommunications carriers of the terms, conditions, and rates from previously approved interconnection agreements is allowed under 47 U.S.C. Section 252(i). Board review is not contemplated for such adoptions. However, adoptions will be listed on the Board's Web page.

The Board is also rescinding the paragraph setting a time line on resubmission. The federal Act favors competition facilitated by interconnection agreements and the deadline for resubmission does not further that goal.

Notice of the Board's proposed rule making was published in the Iowa Administrative Bulletin on November 29, 2000, as ARC 0303B. Three written statements of position were filed by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Qwest Corporation (Qwest), and the Iowa Association of Municipal Utilities (IAMU).

Consumer Advocate suggested the Board include a provision in the adopted rules requiring that a copy of each negotiated interconnection agreement, amendment, or adoption must be served on Consumer Advocate at the time of filing with the Board. Consumer Advocate notes that this is already required by statute, see Iowa Code section 475A.5, but believes it would be beneficial to repeat that requirement in this rule.

The Board will not adopt Consumer Advocate's suggestion in this rule making. Pursuant to the statute, Consumer Advocate is entitled to service of all documents required by statute or rule to be served on parties to proceedings before the Board or filed with the Board. If this is not being done, then the Board believes a more comprehensive rule making proceeding, in which the Board can apply a single, coordinated approach to each chapter of its rules, may offer a better opportunity to remind all parties of their statutory obligation to serve Consumer Advocate. If the Board begins adding individual provisions to each chapter of its rules in a piecemeal fashion, the result may be greater confusion and reduced service on Consumer

Advocate, as it may appear that such service is required only for those chapters containing the new language.

In its written comments, Qwest supported the proposed amendments and suggested reducing the number of copies of the negotiated interconnection agreement that must be filed with the Board from an original and ten copies to an original and three copies. The Board finds that an original and three copies will be sufficient for its review of each agreement, amendment, or adoption. The Board will adopt Qwest's suggestion and amend 199-subrule 38.7(4) to require only an original and three copies.

Finally, the IAMU expressed general support for the proposed amendments.

These amendments are intended to implement Iowa Code sections 17A.4, 476.1, 476.2, 476.11, 476.101, and 47 U.S.C. Sections 252(e) and (i).

The rules will become effective on May 9, 2001.

The following amendments are adopted.

Amend 199-subrule 38.7(4) as follows:

38.7(4) Board review of agreements.

a. *Filing of agreements.* All ~~interconnections~~ interconnection agreements shall be filed with the board for approval within 15 days after the issuance of a final decision on the arbitrated issues, in the case of arbitrated agreements or, in the case of negotiated agreements, after the execution of the agreement. An original and three copies shall be filed.

b. *Notice of negotiated agreements, amendments, and adoption of agreements.*
Notice of the filing of a negotiated interconnection agreement, an amendment to an

agreement, or adoption of an agreement will be posted within five working days after the filing date, on the board's Web site, <http://www.state.ia.us/iub>.

~~b c.~~ Comments on arbitrated agreements. Within ten days following the filing of the arbitrated agreement ~~or 30 days after a negotiated agreement is filed for~~ with the board ~~for~~ review, the parties involved in the ~~negotiations or~~ arbitration, and any other interested party, may submit written comments to the board supporting either approval or rejection of the agreement. If the board does not approve or reject the agreement within ~~90 days after a negotiated agreement or within~~ 30 days after submission by the parties of an agreement adopted by arbitration, the agreement shall be deemed approved.

~~c. Resubmission:~~ If the board rejects a voluntary agreement or arbitration award, the parties may resubmit the agreement for board approval within 30 days following such rejection if the parties have remedied the deficiencies set forth in the board's findings.

d. Comments on negotiated agreements and amendments to agreements.
Within 30 days of the filing date of the negotiated agreement or amendment, the parties involved in the negotiations and any other interested party may submit written comments with the board supporting either acceptance or rejection of the agreement or amendment. If no comments are filed and no issues are generated by the internal board review, the agreement or amendment shall be deemed approved 41 days after the filing date. If comments opposing approval are filed or the internal board review recommends investigation, the agreement or amendment shall be docketed. The docketing order shall be issued within 40 days after the filing date. If

the board does not issue a decision on a docketed filing within 90 days after the filing date, the agreement or amendment shall be deemed approved.

e. *Comments on adoption of agreements.* No board approval is necessary when there is an adoption of the terms, conditions, and rates from an approved interconnection agreement. The adoption is effective upon filing. If there are terms, conditions, or rates in the filing that are not from an adopted agreement, then the filing is subject to the provisions of paragraph 38.7(4)"d."

f. *Indefinite terms, conditions, or rates.* When the agreement or amendment contains terms, conditions, or rates that are not yet agreed to, the parties shall file an amendment to the agreement once they have reached agreement on the terms, conditions, or rates.

March 15, 2001

/s/ Allan T. Thoms
Allan T. Thoms
Chairperson